

**REMARKS**

This Amendment, filed in reply to the Office Action dated August 6, 2008, is believed to be fully responsive to each point of objection and rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-5, 15, 21 and 22 are rejected. Claims 6-11, 16-18, 20, 23, 26-27 are withdrawn from consideration. Claim 1 is amended herewith to further define that the claimed protein comprises a redox center comprising a haem group. Support for this amendment can be found throughout the specification as filed, and at, for example, page 2, line 12. Claims 2, 4 and 20 are canceled herewith without prejudice or disclaimer. Claim 23 is amended herewith to depend from Claim 1, in view of the cancellation of Claim 2. Upon entry of this amendment, Claims 1, 3-5, 12, 13, 18, 21 and 22 will be all the claims under examination in the application. No new matter is added by way of this amendment. Entry and consideration of this amendment are respectfully requested.

**Withdrawn Rejections**

Applicants thank the Examiner for withdrawal of the rejection of Claims 1-5, 15, 21 and 22 under 35 U.S.C. § 112, first paragraph, as lacking a written description.

Applicants also note that, as indicated in the previous Office Action, Claims 12 and 13 are acknowledged by the Office as allowable subject matter.

**Claims 1, 3-5, 15, 21 and 22 are Enabled Under 35 U.S.C. § 112**

On page 3 of the Office Action, the Examiner rejects Claims 1-5, 15, 21 and 22 under 35 U.S.C. § 112, first paragraph, as allegedly lacking enablement.

The Examiner acknowledges that the specification is enabling for the protein of SEQ ID NO: 11 comprising a heme redox center. However, the Examiner asserts that the specification does not reasonably provide enablement for a protein having 4  $\alpha$ -helices of ROP comprising SEQ ID NO: 11 and any redox center, comprising any metal atom, which is stable at different oxidation states.

Solely to advance prosecution, and without prejudice or disclaimer, Applicants herewith amend Claim 1. Claim 1 recites a redox center comprising a heme group. As indicated on page 3, lines 2-3, of the outstanding Office Action, the Office has indicated that the specification is enabling for a protein comprising SEQ ID NO: 11 comprising a heme redox center.

The amendment overcomes the rejection, thus placing examined Claims 1, 3-5, 12, 13, 15, 21 and 22 in condition for allowance.

Withdrawal of the rejection is respectfully requested.

### **Rejoinder**

Claim 16 recites a method for making the product as claimed in Claim 1. Claim 16 depends from and requires all the limitations of Claim 1, thus Applicants respectfully request that, pursuant to M.P.E.P. § 821.04(b), Claim 16 be rejoined for examination as a matter of right.

Further, Applicants note that Claim 23 has been amended to dependent on Claim 1 in view of the cancellation of Claim 2. Accordingly, Applicants respectfully request that should Claim 1 be found allowable, Claim 23 also be found allowable at least by virtue of its dependency on Claim 1.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



---

William J. Simmons, Ph.D.  
Registration No. 59,887

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: November 6, 2008